THE HON'BLE MR. JUSTICE V.V.S. RAO

MONDAY, THE 19TH DAY OF DECEMBER, 2005

W.P.No. 26281 of 2005

Between:-

Chelamala Narasa Reddy and 160 others.

--Petitioners

And

The Special Deputy Collector/The Land Acquisition Officer,

Somasila Project, Unit IV, Rajampeta, Kadapa district.

--Respondent

THE HON'BLE MR. JUSTICE V.V.S. RAO

W.P.No. 26281 of 2005

O R D E R:

The petitioners are residents of Kondamachupalle, Vontimitta Mandal, Kadapa district. In 1980, the lands in the said village, including the lands of the petitioners, were acquired for the purpose of Somasila Project. The notification was issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') on 12-08-1980 and inquiry under Section 5A of the Act was dispensed with. After due process of law, the Land Acquisition Officer, the respondent herein, passed award on 25-08-1984. It appears some of the landowners of the said village sought a reference under Section 18 of the Act, whereupon, the court of the learned Senior Civil Judge, Rajampet, took up reference being L.A.O.P.No. 75 of 1985 and by orders dated 10-02-1992 enhanced the market value payable to the owners from Rs. 14,000-00 to Rs. 21,700-00 per acre.

The petitioners herein did not seek any reference to civil court. However, they allegedly obtained a copy of the order/judgment of the civil court and made an application on 20-04-1992 to the respondent herein under Section 28A of the Act seeking re-determination of the compensation in accordance with the judgment of the civil court. Alleging that the said application was not considered, the petitioners filed the present writ petition seeking a direction to the respondents to pass appropriate orders under Section 28A of the Act.

The matter was initially listed before this court on 09-12-2005. To enable the learned Assistant Government Pleader (Land Acquisition) to get instructions, the matter was adjourned. On 16-12-2005, learned Assistant Government Pleader submitted that the petitioners never made any application under Section 28A of the

Act. To enable the learned counsel for the petitioner to verify the fact, the matter was adjourned.

Even according to the petitioners, they allegedly made a joint application on 20-04-1992 to the respondent under Section 28A of the Act seeking re-determination of the compensation, in vain. This writ petition was filed for redressal on 21-11-2005 and the abnormal delay of thirteen (13) years in filing the writ petition seeking relief is not explained. A Constitution Bench of seven (7) judges of the Supreme Court in *S.S. Rathore v. State of M.P.* ([1]) laid down that though a person is required to approach a departmental official for redressal, such a person has to wait only for six months and seek redressal under Article 226 of the Constitution of India. It was observed therein as:

> 20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months', period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.
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> 21. It is appropriate to notice the provision regarding limitation under S. 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.
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> 22. It is proper that the position in such cases should be uniform. Therefore, in every such case until the appeal or representation provided by a law is disposed of, accrual of cause of action for cause of action shall first arise only when the higher authority makes its order on appeal or representation and where such order is not made on the expiry of six months from the date when the appeal was filed or representation was made. Submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation.

In the entire affidavit accompanying the writ petition sworn to by the 1st petitioner on behalf of the other petitioners, nothing is adverted to explaining the huge delay in filing the writ petition. Consequently, after verifying the record and as instructed by his client, learned Assistant Government Pleader submitted that no such application is filed by the petitioners. The fact that the petitioners are approaching this court with a delay of more than a decade would lend credence to the submission of the learned Assistant Government Pleader and an inference can also be drawn that no such

application was made. Indeed, even according to the petitioners, all of them did not make any individual applications and sent applications through their counsel on 20-04-1992, which is not a proper application in the eye of law.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

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V.V.S. RAO, J

19-12-2005

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